

Message Text

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FM USMISSION NATO

TO SECSTATE WASHDC 4873

INFO AMEMBASSY BONN

AMEMBASSY LONDON

USMISSION BERLIN

C O N F I D E N T I A L SECTION 1 OF 2 USNATO 1711

E.O. 11652: GDS

TAGS: PFOR, NATO, UK, GW, GE

SUBJECT: UK-GDR CONSULAR CONVENTION

SUMMARY: AT POLADS MEETING MARCH26, UK AND FRG REPS EXCHANGED PREPARED STATEMENTS ON UK INTENTION TO CONCLUDE A CONSULAR CONVENTION WITH THE GDR. STATEMENTS INDICATED LONDON HAD CONSULTED CLOSELY WITH BONN AND WAS TAKING CARE NOT TO PREJUDICE FRG POSITION ON THE GERMAN NATIONALITY QUESTION. FRG REP RE-STATED HIS GOVERNMENT'S POSITION AND REQUESTED BILATERAL CONSULTATIONS WITH ANY OTHER ALLY THINKING OF CONCLUDING A CONSULAR CONVENTION WITH THE GDR. TEXTS OF STATEMENTS FOLLOW. END SUMMARY. BEGIN TEXT OF UK STATEMENT ON UK-GDR CONSULAR CONVENTION:

1. IT IS OUR INTENTION TO NEGOTIATE A CONSULAR CONVENTION WITH THE GDR. THE GDR HAVE MADE IT CLEAR THAT THEY WISH TO CONCLUDE A CONVENTION. FOR OUR PART, WE CONSIDER IT ESSENTIAL TO PROVIDE A SUITABLE TREATY BASIS FOR OUR CONSULAR RELATIONS WITH THE GDR. IN PARTICULAR, WE WISH TO ENSURE THAT OUR REPRESENTATIVES IN EAST BERLIN SHOULD RECEIVE TIMELY NOTIFICATION OF THE DETENTION OF BRITISH NATIONALS IN EAST BERLIN AND THE GDR AND SHOULD ALSO HAVE CONFIDENTIAL

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A RIGHT TO CONSULAR ACCESS TO THEM. IT IS NOT CERTAIN THAT THE THE GDR WILL BECOME A PARTY TO THE VIENNA CONSULAR CONVENTION AND, EVEN IF THEY DID, THE PROVISIONS IN THEIR RESPECT ARE, IN OUR VIEW, INADEQUATE. MOREOVER, IF AT SOME FUTURE DATE IT SHOULD BE FOUND

NECESSARY TO OPEN CONSULATES IN THE PROVINCES, IT IS IMPORTANT TO ENSURE THAT THE POSTS AND STAFF IN QUESTION SHOULD BE ACCORDED PRIVILEGES AND, IN PARTICULAR, IMMUNITIES ON AN APPROPRIATE SCALE.

2. BUT WE DO NOT INTEND FOR THE FORESEEABLE FUTURE, TO OPEN A CONSULATE OUTSIDE BERLIN. THE CONSULAR SECTION OF THE BRITISH EMBASSY IN EAST BERLIN WILL, THEREFORE, BE RESPONSIBLE FOR ALL CONSULAR MATTERS AFFECTING BRITISH NATIONALS IN EAST BERLIN AND THE GDR OTHER THAN THOSE BRITISH NATIONALS WHO ARE IN BERLIN UNDER QUADRIPARTITE ARRANGEMENTS.

3. WE UNDERSTAND THAT THE GDR ONLY INSISTS ON EXEQUATURS FOR THE HEADS OF CONSULAR POSTS SEPARATE FROM EMBASSIES. WE DO NOT, THEREFORE, INTEND DEFINING THE CONSULAR DISTRICT OF OUR EMBASSY IN EAST BERLIN IN ANY OFFICIAL COMMUNICATIONS TO THE EAST GERMANS. FOR OUR OWN PURPOSES WE DEFINE THE CONSULAR DISTRICT IN THE FOLLOWING TERMS:
"THE CITY DISTRICTS OF BEGIN BRACKETS HERE WOULD FOLLOW A LIST OF EAST

BERLIN 'BEZIRKE' END BRACKETS AND THE BEZIRKE OF BEGIN BRACKET
HERE WOULD FOLLOW A LIST OF BEZIRKE OF THE GDR PROPER END BRACKET"

4. IN NEGOTIATING THE CONVENTION ITSELF WE SHALL TAKE CARE TO AVOID ANY LANGUAGE THAT WOULD SUGGEST THAT THE CONSULAR SECTION OF OUR EMBASSY IS "IN" THE RECEIVING STATE. THE MOST APPROPRIATE FORM WOULD SEEM TO BE "TO" THE RECEIVING STATE.

5. THE QUESTION OF GERMAN NATIONALITY IS AN IMPORTANT ONE. WE HAVE CLOSELY CONSULTED THE FRG ON HOW WE MIGHT BEST HANDLE THIS POINT. THE 1956 UK/FRG CONSULAR CONVENTION DEFINES "GERMAN NATIONALS" FOR THE PURPOSES OF THE CONVENTION AS BEING GERMANS IN THE SENSE OF THE BASIC LAW OF THE FRG, WHO, INCLUDE ALL THOSE WHO WOULD BE GERMAN NATIONALS UNDER THE REICH NATIONALITY LAW OF 1913, IE FRG AND GDR CITIZENS.

6. UNDER THE TERMS OF OUR OWN NATIONALITY LAW WE CANNOT AVOID USING THE EXPRESSION "NATIONALS" IN THE CONVENTION. BUT THE BRITISH DRAFT
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DESCRIBES NATIONALS FOR THE PURPOSES OF THE CONVENTION AS BEING IN THE CASE OF THE GDR, "GDR CITIZENS". IF THE EAST GERMANS ACCEPT THIS FORMULATION AND A CONVENTION IS EVENTUALLY CONCLUDED ON THESE LINES, GDR CITIZENS IN THE UK WILL FALL WITHIN THE MEANING OF BOTH THE UK/FRG AND THE UK/GDR CONVENTIONS.

7. WE HAVE AGREED UPON A NUMBER OF PRACTICAL ARRANGEMENTS WITH THE FRG TO SAFEGUARD THEIR CONSULAR INTERESTS IN THE UK FOLLOWING THE ENTRY INTO FORCE OF THE UK/GDR CONSULAR CONVENTION. THE FRG EMBASSY WOULD NOT AUTOMATICALLY BE NOTIFIED OF THE DETENTION IN THE UK OF THOSE GERMANS WHO ARE GDR CITIZENS. BUT THE RIGHT OF FRG CONSULAR OFFICERS TO RENDER CONSULAR ASSISTANCE TO GDR CITIZENS IF THE LATTER SO REQUEST IT WILL CONTINUE TO REMAIN UNIMPAIRED. THE BRITISH

AUTHORITIES CONCERNED WOULD BE INSTRUCTED TO ENSURE THAT THE WISHES
OF GDR CITIZENS DETAINED IN THE UK WHO WISHED TO BE PUT IN CONTACT
WITH THE FRG EMBASSY REMAIN RESPECTED.
END TEXT

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C O N F I D E N T I A L SECTION 2 OF 2 USNATO 1711

BEGIN TEXT OF FRG COMMENTS ON UK STATEMENT:

1. WE APPRECIATE THE STATEMENT BY MY BRITISH COLLEAGUE
ON THE PROPOSED CONSULAR CONVENTION WITH THE GDR.
WE HAVE NOTED WITH SATISFACTION THAT THE UNITED
KINGDOM HAS TAKEN INTO ACCOUNT THE INTERESTS OF THE
FEDERAL REPUBLIC OF GERMANY CONCERNING THE
NATIONALITY-QUESTION AND THE GRANTING OF CONSULAR
ASSISTANCE TO ALL GERMANS. MY GOVERNMENT WOULD LIKE
TO SEIZE THIS OPPORTUNITY TO EXPLAIN OUR POSITION
ONCE AGAIN.

2. AFTER THE ENTRY INTO FORCE OF THE BASIC RELATIONS
TREATY BETWEEN THE FEDERAL REPUBLIC OF GERMANY AND
THE GDR, MY AUTHORITIES UNDERSTAND THE DESIRE OF SOME
ALLIES TO CONCLUDE A BILATERAL CONSULAR CONVENTION WITH
THE GDR IN ORDER TO ENSURE EXTENSIVE CONSULAR
PROTECTION OF THEIR NATIONALS IN GDR. HOWEVER,
IT MUST BE POINTED OUT THAT THE GDR IS NOW ALSO ABLE
TO ACCEDE TO THE VIENNA CONVENTION OF 1963 ON CONSULAR
RELATIONS. THIS CONVENTION LAYS DOWN WIDELY RECOGNIZED
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STANDARDS FOR THE RESPONSIBILITIES AND THE STATUS OF
CONSULS AND CONSULATES.

3. AS YOU KNOW, THE TREATY ON THE BASIS OF RELATIONS
BETWEEN THE FEDERAL REPUBLIC OF GERMANY AND THE GDR
HAS NOT SETTLED THE GERMAN QUESTION AND HAS ESPECIALLY
LEFT THE QUESTION OF NATIONALITY EXPLICITLY OPEN.
THE BASIC RELATIONS TREATY THEREFORE DOES NOT AFFECT
THE LEGAL SITUATION WHICH RESULTS FROM THE LEGISLATION
OF NATIONALITY APPLICABLE IN THE FEDERAL REPUBLIC
OF GERMANY. ACCORDINGLY, ALL GERMANS IN THE MEANING
OF THE BASIC LAW (BRUDGESETZ) OF THE FEDERAL
REPUBLIC OF GERMANY ARE, IRRESPECTIVE OF WHERE THEY
LIVE, IN PRINCIPLE GERMAN NATIONALS AND ARE THUS ENTITLED
TO CLAIM THE PROTECTION OF OUR DIPLOMATIC AND CONSULAR
MISSIONS ABROAD.

4. IN VIEW OF THE LEGAL SITUATION IN GERMANY AND WITH
REGARD TO THE CONSULAR PROTECTION OF PERSONS WHOM THE
FEDERAL REPUBLIC OF GERMANY REGARDS AS GERMAN NATIONALS,
WE WOULD WELCOME IT IF, IN CONCLUDING BILATERAL
CONSULAR CONVENTIONS WITH THE GDR, OUR ALLIES WOULD
AVOID PREJUDICING THE NATIONALITY-QUESTION IN DIVIDED
GERMANY IN ANY WAY. IN PARTICULAR, WE WOULD ASK THAT
IT BE ENSURED THAT THE RIGHT OF THE FEDERAL REPUBLIC
OF GERMANY TO LOOK AFTER THE RIGHTS OF ALL GERMANS
WITHIN THE MEANING OF THE BASIC LAW-INCLUDING THOSE
HAVING THEIR RESIDENCE IN THE GDR AND WHO SO DESIRE-
IS NOT AFFECTED AND CAN BE EXERCISED IN PRACTICE
WITHOUT RESTRAINT AS IN THE PAST. AS THE STATEMENT BY
MY BRITISH COLLEAGUE SHOWS, WE HAVE REACHED FULL
AGREEMENT WITH THE BRITISH GOVERNMENT ON THIS POINT.

5. WE SHOULD THEREFORE BE GRATEFUL IF THE GOVERNMENTS OF
OUR OTHER NATO PARTNERS COULD-AS SOME HAVE ALREADY
DONE-CONSULT US BILATERALLY BEFORE ENTERING INTO
CONSULAR NEGOTIATIONS WITH THE GDR IN ORDER TO DISCUSS
THESE QUESTIONS IN DETAIL.

END TEXT

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